

NOT SCHEDULED FOR ORAL ARGUMENT
IN THE UNITED STATES COURT OF APPEALS
FOR THE D.C. CIRCUIT

AMERICAN WATER WORKS
ASSOCIATION, et al.,

Petitioners,

v.

U.S. ENVIRONMENTAL PROTECTION
AGENCY and LEE M. ZELDIN, Administrator
of the U.S. Environmental Protection Agency,

Respondents.

Case No. 24-1188 and consolidated
cases

JOINT MOTION TO GOVERN

Respondents, Respondent-Intervenors, and Petitioners in Case Nos. 24-1188, 24-1191, and 24-1192 respectfully move the Court to issue an order regarding proceedings in this matter as set forth below.

1. Petitioners seek review of an EPA action entitled, “PFAS National Primary Drinking Water Regulation,” 89 Fed. Reg. 32532 (April 26, 2024) (“Rule”). The Rule establishes National Primary Drinking Water Regulations for PFOS and PFOA, two contaminants in a class of compounds known as per- and polyfluoroalkyl substances (“PFAS”). The Rule also sets forth regulatory determinations and establishes National Primary Drinking Water Regulations for

three additional PFAS compounds—PFHxS, PFNA, and HFPO-DA—as well as mixtures containing two or more of PFHxS, PFNA, HFPO-DA, and/or PFBS.

2. Petitioners filed their opening briefs on October 7, 2024; Amici on behalf of Petitioners filed their brief on October 29, 2024; Respondents filed their brief on December 23, 2024; Respondent-Intervenors filed their brief on January 17, 2025; and Amici on behalf of Respondents filed their briefs on January 17, 2025.

3. Petitioners have not yet filed their reply briefs and oral argument has not yet been scheduled.

4. On February 7, 2025, Respondents sought and this Court granted a 60-day abeyance of proceedings in this matter, which the Court continued through July 21, 2025. ECF No. 2099439; ECF No. 2099658; 2109980, 2110289, 2115469, 2115832, 2119087, 2119400. On July 22, 2025, the Court issued an order directing the parties to submit a proposed schedule and format for the completion of briefing by August 1, 2025.

5. EPA announced its planned actions with respect to the challenged Rule on May 14, 2025. *See* <https://www.epa.gov/newsreleases/epa-announces-itwill-keep-maximum-contaminant-levels-pfoa-pfos>. In that announcement, EPA stated that it intends to retain the Rule's current National Primary Drinking Water

Regulations for PFOS and PFOA. Separately, EPA intends to develop a rulemaking to provide additional time for compliance with the standards for PFOS and PFOA, including a proposal to extend the compliance date to 2031. *Id.* EPA plans to issue a proposed rule this fall and finalize this rule in the Spring of 2026. *Id.* EPA also announced that it intends to reconsider both the National Primary Drinking Water Regulation and regulatory determinations for PFHxS, PFNA, HFPO-DA, and mixtures of two or more of those PFAS and/or PFBS. *Id.*

6. To address these changes in the Agency's approach to these contaminants, Respondents noted their intent to file either a motion or letter with the Court clarifying their position in this litigation and proposed a briefing schedule that took that upcoming filing into consideration. ECF 2128362.

7. The Court then ordered the parties to file a motion to govern on or before September 10, 2025. ECF 2129115.

8. The parties are conferring in good faith on a briefing schedule, but have not yet reached consensus. To afford the parties the opportunity to assess whether a joint proposal may be made, the parties request the Court order that a proposed briefing schedule be filed on or before September 12, 2025.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

This document complies with the word limit of Federal Rule of Appellate Procedure 27(d)(2)(A) because, excluding the parts of the document exempted by Federal Rule of Appellate Procedure 32(f), this document contains 496 words.

This document complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Microsoft Word in 14-point Times New Roman font.

Finally, I certify that on September 10, 2025, I electronically filed this document with the Court's CM/ECF system, which will serve each party's counsel of record.

/s/ Kimere J. Kimball
KIMERE J. KIMBALL